

Senate Bill No. 1063

CHAPTER 199

An act to amend Sections 1610.8, 1614, 3371, 3692, 3698.5, 3698.7, 4112, 4675, and 5104 of, to add Sections 3794.3 and 4672.3 to, and to repeal Sections 1612 and 1613 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 3, 2003. Filed with
Secretary of State August 4, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1063, Committee on Revenue and Taxation. Property taxation: county equalization: administration.

Existing law requires the county board of equalization to equalize the assessment of property by specified methods.

This bill would also require that equalization by assessing property that has escaped assessment, by making certain corrections, and by canceling assessments of property not subject to taxation.

Existing law requires the clerk of a county board of equalization to record changes to the county property tax roll and to prepare a monthly statement of these changes, as provided. Existing law requires the clerk to deliver this statement to the county auditor once monthly with a sworn affidavit that the changes are complete as of a specified date.

This bill would repeal the requirement that the clerk deliver this statement with a sworn affidavit. This bill would also consolidate the provisions requiring the clerk to record and prepare a statement of monthly changes to the roll.

Existing law authorizes a county board of equalization, 5 days after its clerk sends notice to interested parties that a matter will be investigated, to direct the county assessor to (1) assess any taxable property in the county that has escaped assessment, (2) change the amount, number, quantity, or description of property on the local roll, or (3) make and enter new assessments, at the same time canceling previous entries, when any assessment made by the assessor is deemed by the county board to be so incomplete that it renders doubtful the collection of the tax.

This bill would repeal that authorization.

Existing law requires the tax collector to publish an affidavit regarding real property for which taxes and related amounts are in default and to mail delinquent notices.

This bill would make a technical, nonsubstantive change to those provisions.

Existing law requires the tax collector to attempt to sell tax-defaulted property within 4 years of the time that property becomes subject to sale for nonpayment of taxes, and requires the Notice of Power to Sell Tax-Defaulted Property, Notice of Power and Intent to Sell Tax-Defaulted Property, Notice to the Board of Supervisors, and Notice of Intended Sale of Tax-Defaulted Property to indicate that any parcel remaining unsold may be reoffered within a 90-day period.

This bill would repeal the requirement that the Notice of Power to Sell Tax-Defaulted Property and the Notice of Power and Intent to Sell Tax-Defaulted Property indicate that any parcel remaining unsold may be reoffered within a 90-day period.

Existing law requires the price at which certain tax-defaulted property may be offered for sale to be the total amount necessary to redeem the property, plus costs, and prescribes the manner of distribution of proceeds from the sale of tax-defaulted property.

This bill would include in those costs the actual and reasonable costs incurred by the tax collector in informing the owner-occupant of the property to be sold, in the case of the proposed tax sale of property that is the primary residence of the last known assessee, of his redemption rights and that the property, if not redeemed, will be offered for sale. This bill would also require the distribution of those costs to the tax collector, after distribution of a certain amount into the state General Fund.

Existing property tax law generally authorizes a county tax collector to sell tax-defaulted property 5 years or more after that property has become tax defaulted.

This bill would expressly require the approval of the county board of supervisors for the sale of that tax-defaulted property.

Existing law authorizes any party of interest in the property to file with the county a claim for the excess proceeds from the sale of tax-defaulted property, at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.

This bill would, in the event that a person with title of record is deceased at the time of distribution of the excess process, authorize that person's heirs to submit an affidavit to support their claim for excess proceeds.

Existing law, under certain conditions, authorizes the payment of a property tax refund, made on the basis of a reduction in the value of taxable property, to the latest recorded owner of that property as shown on the tax roll, rather than to the individual or entity that paid the amount of tax to be refunded.



This bill would authorize the refund of assessments in addition to a refund of taxes, and would additionally allow refunds to be made on the basis of corrections to the roll or cancellations after taxes or assessments were paid.

The people of the State of California do enact as follows:

SECTION 1. Section 1610.8 of the Revenue and Taxation Code is amended to read:

1610.8. After giving notice as prescribed by its rules, the county board shall equalize the assessment of property on the local roll by determining the full value of an individual property, by assessing any taxable property that has escaped assessment, correcting the amount, number, quantity, or description of property on the local roll, canceling assessments of any property not subject to taxation, and by reducing or increasing an individual assessment, as provided in this section. The full value of an individual property shall be determined without limitation by reason of the applicant's opinion of value stated in the application for reduction in assessment pursuant to subdivision (a) of Section 1603.

The applicant for a reduction in an assessment on the local roll shall establish the full value of the property by independent evidence. The records of the assessor may be used as part of such evidence.

The county board shall make a determination of the full value of each parcel for which an application for equalization is made.

SEC. 2. Section 1612 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 1613 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 1614 of the Revenue and Taxation Code is amended to read:

1614. (a) The clerk of the county board shall keep an accurate record of all changes to the roll and all orders made by the county board. No later than the second Monday of each month the clerk shall deliver the statement of all changes to the roll made by the county board during the preceding calendar month to the auditor.

(b) This section does not prohibit the clerk from transmitting to the auditor changes to the roll more frequently than once per month.

(c) This section shall not be construed to require the clerk to deliver the statement described in subdivision (a) for a month in which the county board has made no changes to the roll.

SEC. 5. Section 3371 of the Revenue and Taxation Code is amended to read:

3371. (a) Annually, on or before September 8, the tax collector shall publish the affidavit that the real property on which the taxes, assessments, penalties, and costs had not been fully paid are in default,

together with a list of all that real property. However, in any county that mails delinquent notices to the assesses of record before June 30, the tax collector shall publish the affidavit and list of all that real property on or before September 8 of the year following the date of default.

(b) If the tax collector sends reminder notices prior to the close of the fiscal year and annually sends a redemption notice of prior year due taxes, the delinquent notice described in subdivision (a) may be published only for those properties that have been tax-delinquent for three or more years and for which the latest reminder notice or redemption notice was returned to the tax collector as undeliverable.

SEC. 6. Section 3692 of the Revenue and Taxation Code is amended to read:

3692. (a) The tax collector shall attempt to sell tax-defaulted property as provided in this chapter within four years of the time that the property becomes subject to sale for nonpayment of taxes unless by other provisions of law the property is not subject to sale. If there are no acceptable bids at the attempted sale, the tax collector shall attempt to sell the property at intervals of no more than six years until the property is sold.

(b) When oil, gas, or mineral rights are subject to sale for nonpayment of taxes, the tax collector may offer the interest at minimum bid to the holders of outstanding interests where the interest subject to sale is a partial interest or, where the interest subject to sale is a complete and undivided interest, to the owner or owners of the property to which the oil, gas, or mineral rights are appurtenant.

(c) When parcels that are rendered unusable by their size, location, or other conditions are subject to sale for nonpayment of taxes, the tax collector may offer the parcel at a minimum bid to owners of contiguous parcels. The tax collector shall require that the successful bidder request the assessor and the planning director to combine the unusable parcel with the bidder's own parcel as a condition of sale.

(d) Sealed bid sale procedures shall be used when offers are made pursuant to subdivision (b) or subdivision (c), and the property shall be sold to the highest eligible bidder. The offers shall remain in effect for 30 days or until notice is given pursuant to Section 3702, whichever is later.

(e) The Notice to the Board of Supervisors and Notice of Intended Sale of Tax-Defaulted Property shall indicate that any parcel remaining unsold may be reoffered within a 90-day period and any new parties of interest shall be notified in accordance with Section 3701. This subdivision shall not apply to properties sold pursuant to Chapter 8 (commencing with Section 3771).



SEC. 7. Section 3698.5 of the Revenue and Taxation Code is amended to read:

3698.5. (a) Except as provided in Section 3698.7, the minimum price at which property may be offered for sale pursuant to this chapter shall be an amount not less than the total amount necessary to redeem, plus costs. For purposes of this subdivision:

(1) The “total amount necessary to redeem” is the sum of the following:

- (A) The amount of defaulted taxes.
- (B) Delinquent penalties and costs.
- (C) Redemption penalties.
- (D) A redemption fee.

(2) “Costs” are those amounts described in subdivision (c) of Section 3704.7, subdivisions (a) and (b) of Section 4112, Sections 4672, 4672.1, 4672.2, 4673, and subdivision (b) of Section 4673.1.

(b) This section shall not apply to property or interests that qualify for sale in accordance with the provisions of subdivisions (b) and (c) of Section 3692.

(c) Where property or property interests have been offered for sale at least once and no acceptable bids therefor have been received at the minimum price determined pursuant to subdivision (a), the tax collector may, in his or her discretion and with the approval of the board of supervisors, offer that same property or those interests at the same or next scheduled sale at a minimum price that the tax collector deems appropriate in light of the most current assessed valuation of that property or those interests, or any unique circumstance with respect to that property or those interests.

SEC. 8. Section 3698.7 of the Revenue and Taxation Code is amended to read:

3698.7. (a) With respect to property for which a property tax welfare exemption has been granted and that has become tax defaulted, the minimum price at which the property may be offered for sale pursuant to this chapter shall be the higher of the following:

(1) Fifty percent of the fair market value of the property. For the purposes of this paragraph, “fair market value” means the amount as defined in Section 110 as determined pursuant to an appraisal of the property by the county assessor within one year immediately preceding the date of the public auction. From the proceeds of the sale, there shall be distributed to the county general fund an amount to reimburse the county for the cost of appraising the property. The value of the property as determined by the assessor pursuant to an appraisal shall be conclusively presumed to be the fair market value of the property for the



purpose of determining the minimum price at which the property may be offered for sale.

(2) The total amount necessary to redeem, plus costs. For purposes of this paragraph:

(A) The “total amount necessary to redeem” is the sum of the following:

- (i) The amount of defaulted taxes.
- (ii) Delinquent penalties and costs.
- (iii) Redemption penalties.
- (iv) A redemption fee.

(B) “Costs” are those amounts described in subdivision (c) of Section 3704.7, subdivisions (a) and (b) of Section 4112, Sections 4672, 4672.1, 4672.2, and 4673, and subdivision (b) of Section 4673.1.

(b) This section shall not apply to property or interests that qualify for sale in accordance with the provisions of subdivisions (b) and (c) of Section 3692.

(c) Where property or property interests have been offered for sale at least once and no acceptable bids therefor have been received, the tax collector may, in his or her discretion and with the approval of the board of supervisors, offer that property or those interests at the next scheduled sale at a minimum price that the tax collector deems appropriate.

SEC. 9. Section 3794.3 is added to the Revenue and Taxation Code, to read:

3794.3. A sale under this chapter shall take place only if approved by the board of supervisors.

SEC. 10. Section 4112 of the Revenue and Taxation Code is amended to read:

4112. (a) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the tax collector shall collect all of the following, in addition to the amount required to redeem:

(1) A fee of thirty-five dollars (\$35) that shall be distributed to the county general fund to reimburse the county for its cost of obtaining the names and last known mailing addresses of, and for mailing notices required by Section 3701 to, parties of interest as defined by Section 4675.

(2) A fee in the amount required by Section 27361.3 of the Government Code that shall be distributed to the county recorder for the cost of recordation of a rescission of the notice, as required by subdivision (c).

(3) A fee of one hundred fifty dollars (\$150) if redemption is within 90 days of the proposed date for the tax sale of the redeemed property. In the case of unsold tax sale properties remaining on the abstract after the tax sale, the fee shall become a part of the redemption amount and



collectible whenever the property is redeemed. The fee shall be distributed to the county general fund to reimburse the county for costs incurred by the county in preparing to conduct that sale.

(4) The amount described in subdivision (c) of Section 3704.7 to reimburse the county for the cost of a personal contact required by that section.

(b) Notwithstanding subdivision (a), if the tax-defaulted property is redeemed prior to the proposed sale, but after the county has incurred notice or publication costs pursuant to Section 3702 in connection with a notice of intended sale, a fee in an amount reasonably necessary to reimburse the tax collector for those costs may be collected.

(c) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the notice becomes null and void and the tax collector shall execute and record with the county recorder a rescission of the notice in the form prescribed by the Controller. The rescission shall be acknowledged by the county clerk, without charge.

(d) Any fee imposed under paragraph (1) of subdivision (a) or subdivision (b) shall be subject to the requirements of Section 54986 of the Government Code.

SEC. 11. Section 4672.3 is added to the Revenue and Taxation Code, to read:

4672.3. (a) To reimburse the county for the costs of a personal contact, there shall be distributed to the tax collector a sum equal to the total amount of costs of the tax collector, but not to exceed one hundred dollars (\$100), incurred in conducting the personal contact pursuant to Section 3704.7, for all or any portion of each separately valued parcel of real property subject to a power of sale and sold to private parties or a taxing agency.

(b) The amount of the costs shall be paid from the total amount to be distributed from the sold property, after satisfaction of the amount specified in Section 4672. If, after satisfaction of the amount specified in Section 4672, there is insufficient funds to pay the costs specified in subdivision (a), the costs shall be reduced accordingly.

SEC. 12. Section 4675 of the Revenue and Taxation Code is amended to read:

4675. (a) Any party of interest in the property may file with the county a claim for the excess proceeds, in proportion to his or her interest held with others of equal priority in the property at the time of sale, at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.

(b) After the property has been sold, a party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the

right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned. Any attempted assignment that does not comply with these requirements shall have no effect. This paragraph shall apply only with respect to assignments on or after the effective date of this paragraph.

(c) Any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount of excess proceeds has been disclosed to the party of interest and that the party of interest has been advised of his or her right to file a claim for the excess proceeds on his or her own behalf.

(d) The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.

(e) No sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, the excess proceeds shall be distributed on order of the board of supervisors to the parties of interest who have claimed the excess proceeds in the order of priority set forth in subdivisions (a) and (b). For the purposes of this article, parties of interest and their order of priority are:

(1) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority.

(2) Second, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.

(f) In the event that a person with title of record is deceased at the time of the distribution of the excess proceeds, the heirs may submit an affidavit pursuant to Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code, to support their claim for excess proceeds.

(g) Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of that decision of the board of supervisors.

SEC. 13. Section 5104 of the Revenue and Taxation Code is amended to read:

5104. Any refund of taxes or assessments authorized pursuant to this article as a result of a reduction in the value of taxable property or as the result of corrections to the roll or cancellations after taxes or assessments were paid, may be paid to the latest recorded owner of that property as shown on the tax roll, rather than to the individual or entity



who paid the amount of tax or assessment to be refunded, if both of the following conditions are met:

(a) There has been no transfer of the property during or since the fiscal year for which the taxes subject to refund were levied.

(b) The amount of the refund is less than five thousand dollars (\$5,000).

